

## **EXHIBIT 2**

June 14, 2024

**Sent Via Electronic Mail: (10daynoticce9@schools.nyc.gov)**

New York City Department of Education  
Committee on Special Education 9  
333 7th Avenue, 12th Floor  
New York, New York 10001

**TEN DAY NOTICE**

Student: [REDACTED]

NYC ID#: [REDACTED]

DOB: [REDACTED]

Parent(s)/Guardian(s): Rosa Zayas and Edwin Zayas

Home Address: [REDACTED]

To Whom It May Concern:

The Liberty and Freedom Legal Group, Ltd. (“Counsel”), represents the above-named student (“Student” or [REDACTED]) and their parent(s)/guardian(s) (“Parents”) (collectively “Clients”), in matters pertaining to the classification, program, placement, and implementation of special education and related services for the Student.

Pursuant to 20 U.S.C. §1412 (a)(10)(C)(iii) and 34 C.F.R. §300.148 (d)(1)), and on behalf of our Clients, we are providing the New York City Department of Education, the Student’s local educational agency (“DOE”), ten (10) business days’ notice of the Parents’ rejection of the most recent proposed DOE Individualized Education Program (“IEP”), recommended program and school placement, for the 2024-2025 extended school year (“ESY”) because of the DOE’s failure to offer or provide the Student with a Free Appropriate Public Education (“FAPE”) and maintain the Student at their last agreed upon educational placement, the International Academy for the Brain, d/b/a iBRAIN, Ltd. (“iBRAIN”), while seeking public funding for the Student’s placement. iBRAIN is located at 403 East 91st Street, New York, NY 10128, and is a specialized educational program designed to educate students, like the Student, who suffer from a brain injury or brain-based disorder.

Also, no school location letter for the 2024-2025 ESY has been issued. If DOE recommends the same District 75 public school as last year, please note the Parents have previously rejected that location because it was not appropriate for the Student.

Parents are requesting the DOE to maintain this status quo during the pending impartial hearing process and any appeals, through the “stay-put” provision pursuant to 20 U.S.C. §1415 (j) and have included the DOE Pendency Form already pre-populated with this Ten-Day Notice as Exhibit A. In order to maintain the Student in their pendency program, please be prepared to fully implement this pendency placement at the start of the extended school year.

Address:

300 East 95th Street  
Suite 130  
New York, NY 10128

Phone:

646-850-5035

This notice is sent in addition to the Parents having expressed their concerns, disagreements, and rejection of the Committee on Special Education's ("CSE") recommendations at the most recent Individualized Education Program ("IEP") meeting. The Parent continues to request Independent Education Evaluations (IEEs) of the Student; to be conducted at public expense, in order to appropriately assess the Student in all areas related to their suspected disabilities, including, but not limited to neuropsychological, physical therapy, occupational therapy, speech-language therapy, special education and assistive technology assessments due to the lack of proper assessments conducted by the DOE prior to the development of the most recent IEP meeting.

The Student is a child who suffers from a brain-based injury and the Student's educational needs are multifaceted and complex, and the DOE's recommended program and placement will not appropriately address their educational needs for the 2024-2025 extended school year.

Based on the Parents' review of the proposed recommended program and placement for the Student, the proposed IEP to be implemented during the 2024-2025 extended school year is not designed to enable the Student to receive appropriate educational benefits or receive appropriate related services. The proposed District 75 public school placement recommendations cannot be implemented, as proposed in the IEP, during the regular school day. Parents are also concerned about the appropriateness of the recommended placement for reasons including, but not limited to, class size ratio, class functional and academic grouping, staffing, accessibility, availability of adequate resources, and the lack of individualized attention and support. Further, the Parents are concerned the physical structure and facility of the proposed school location is not appropriate to address the Student's individual needs.

Our Clients remain willing and ready to entertain an appropriate public or approved non-public school placement that can provide the required intensive academic and related services program the Student requires. Accordingly, the Parents request the CSE reconvene for this purpose once the IEEs have been completed in order to develop an appropriate IEP. At this time, however, the Parents have no choice other than to re-enroll the Student in iBRAIN, which is an appropriate placement for the Student and is the last agreed- upon placement between the Parents and the DOE.

Very truly yours,

/s:/ Edward Lent  
Edward Lent, Esq.  
Liberty and Freedom Legal Group, Ltd.  
Attorneys for Parents

cc: Rosa Zayas and Edwin Zayas ([mun2ncoma11@icloud.com](mailto:mun2ncoma11@icloud.com)), ([edwinzayas57@gmail.com](mailto:edwinzayas57@gmail.com))

## **Exhibit A: Pendency Implementation Form**

*Please complete the form above the bold line. The DOE will review all submissions prior to implementation.*

<b>Student Name</b>	<b>OSIS Number</b>	<b>DPC Number</b>
[REDACTED]	[REDACTED]	

1. The basis for pendency is:

IEP

Unappealed SRO: 23-272, 02/21/2024

Other (explain):

2. The pendency program consists of the following:

<b>Tuition</b>		
<b>School Name</b>	<b>10- or 12-Month Program</b>	<b>Other Notes</b>
iBRAIN (base and supplemental tuition)	12-month program	

<b>Services</b>				
<b>Service or Item</b>	<b>Ratio and Frequency</b>	<b>10- or 12-Month Program</b>	<b>DOE or Private Provider</b>	<b>Private Provider Name and Rate</b>
Transportation in accordance with the Parent's agreement with the Transportation Provider	Daily	12-month	Private	
Nursing 1:1, in accordance with the Parent's agreement with Nursing Company	Daily	12-month	Private	

Form submitted by: Peter Albert, 06/10/2024, Parents' Counsel

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**For DOE use only:**

Σ The above program should be implemented as pendency.

Pendency starts on:

The date the DPC was filed:

Other (explain):

Click or tap to enter a date.

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DOE Reviewer

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Date